

Senate Bill No. 1113

CHAPTER 48

An act to amend Sections 5641.4, 6714, 7018.5, 7159.4, 7159.5, 7159.6, 7159.10, 7159.11, 7159.12, 7159.13, and 7159.14 of, to amend and repeal Sections 7030, 7159, and 7159.3 of, and to amend, repeal, and add Sections 7164 and 7167 of, the Business and Professions Code, and to amend Section 1689.15 of, and to amend and repeal Sections 1689.5, 1689.6, 1689.7, and 1689.13 of, the Civil Code, and to repeal Section 21 of Chapter 566 of the Statutes of 2004, relating to professions and vocations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 18, 2005. Filed with
Secretary of State July 18, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1113, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Existing law provides for the licensing and regulation of landscape architects by the California Architects Board. Existing law exempts landscape contractors from regulatory and licensing provisions governing landscape architects under certain conditions.

This bill would revise and recast this provision.

(2) The Professional Engineers Act provides for the licensing and regulation of professional engineers and land surveyors until July 1, 2006, by the Board for Professional Engineers and Land Surveyors. The board is authorized to appoint an executive officer until July 1, 2005.

This bill would authorize the board to appoint an executive officer until July 1, 2006.

(3) Existing law provides for licensing and regulation of contractors by the Contractors' State License Board. Existing law requires a home improvement contract to be in writing and to contain certain information, notices, and disclosures, including a statement that a consumer has a right to cancel or rescind the contract. Existing law also requires certain disclosures with respect to a service and repair contract. The provisions governing home improvement contracts and service and repair contracts become operative on July 1, 2005.

This bill would instead provide that these provisions become operative on January 1, 2006. The bill would revise and recast certain of these provisions and make other related changes in other provisions of law.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 5641.4 of the Business and Professions Code is amended to read:

5641.4. A landscape contractor licensed under the statutes of this state, insofar as he or she works within the classification for which the license is issued, may design systems and facilities for work to be performed and supervised by that landscape contractor and is exempt from the provisions of this chapter, except that a landscape contractor may not use the title “landscape architect” unless he or she holds a license as required under this chapter.

SEC. 2. Section 6714 of the Business and Professions Code is amended to read:

6714. The board shall appoint an executive officer at a salary to be fixed and determined by the board with the approval of the Director of Finance.

This section shall become inoperative on July 1, 2006, and, as of January 1, 2007, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2007, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 7018.5 of the Business and Professions Code is amended to read:

7018.5. (a) The board shall prescribe a form entitled “Notice to Owner” which shall state:

“Under the California Mechanics’ Lien Law, any contractor, subcontractor, laborer, supplier, or other person or entity who helps to improve your property, but is not paid for his or her work or supplies, has a right to place a lien on your home, land, or property where the work was performed and to sue you in court to obtain payment.

This means that after a court hearing, your home, land, and property could be sold by a court officer and the proceeds of the sale used to satisfy what you owe. This can happen even if you have paid your contractor in full if the contractor’s subcontractors, laborers, or suppliers remain unpaid.

To preserve their rights to file a claim or lien against your property, certain claimants such as subcontractors or material suppliers are each required to provide you with a document called a “Preliminary Notice.” Contractors and laborers who contract with owners directly do not have to provide such notice since you are aware of their existence as an owner. A preliminary notice is not a lien against your property. Its purpose is to notify you of persons or entities that may have a right to file a lien against your property if they are not paid. In order to perfect their lien rights, a contractor, subcontractor, supplier, or laborer must file a mechanics’ lien with the county recorder which then becomes a recorded lien against your property. Generally, the maximum time allowed for filing a mechanics’ lien against your property is 90 days after substantial completion of your project.

TO INSURE EXTRA PROTECTION FOR YOURSELF AND YOUR PROPERTY, YOU MAY WISH TO TAKE ONE OR MORE OF THE FOLLOWING STEPS:

(1) Require that your contractor supply you with a payment and performance bond (not a license bond), which provides that the bonding company will either complete the project or pay damages up to the amount of the bond. This payment and performance bond as well as a copy of the construction contract should be filed with the county recorder for your further protection. The payment and performance bond will usually cost from 1 to 5 percent of the contract amount depending on the contractor's bonding ability. If a contractor cannot obtain such bonding, it may indicate his or her financial incapacity.

(2) Require that payments be made directly to subcontractors and material suppliers through a joint control. Funding services may be available, for a fee, in your area which will establish voucher or other means of payment to your contractor. These services may also provide you with lien waivers and other forms of protection. Any joint control agreement should include the addendum approved by the registrar.

(3) Issue joint checks for payment, made out to both your contractor and subcontractors or material suppliers involved in the project. The joint checks should be made payable to the persons or entities which send preliminary notices to you. Those persons or entities have indicated that they may have lien rights on your property, therefore you need to protect yourself. This will help to insure that all persons due payment are actually paid.

(4) Upon making payment on any completed phase of the project, and before making any further payments, require your contractor to provide you with unconditional "Waiver and Release" forms signed by each material supplier, subcontractor, and laborer involved in that portion of the work for which payment was made. The statutory lien releases are set forth in exact language in Section 3262 of the Civil Code. Most stationery stores will sell the "Waiver and Release" forms if your contractor does not have them. The material suppliers, subcontractors, and laborers that you obtain releases from are those persons or entities who have filed preliminary notices with you. If you are not certain of the material suppliers, subcontractors, and laborers working on your project, you may obtain a list from your contractor. On projects involving improvements to a single-family residence or a duplex owned by individuals, the persons signing these releases lose the right to file a mechanics' lien claim against your property. In other types of construction, this protection may still be important, but may not be as complete.

To protect yourself under this option, you must be certain that all material suppliers, subcontractors, and laborers have signed the "Waiver and Release" form. If a mechanics' lien has been filed against your property, it can only be voluntarily released by a recorded "Release of Mechanics' Lien" signed by the person or entity that filed the mechanics' lien against your property unless the lawsuit to enforce the lien was not

timely filed. You should not make any final payments until any and all such liens are removed. You should consult an attorney if a lien is filed against your property.”

(b) Each contractor licensed under this chapter, prior to entering into a contract with an owner for work specified as home improvement or swimming pool construction pursuant to Section 7159, shall give a copy of this “Notice to Owner” to the owner, the owner’s agent, or the payer. The failure to provide this notice as required shall constitute grounds for disciplinary action.

(c) This section shall be repealed on January 1, 2006.

SEC. 4. Section 7030 of the Business and Professions Code, as amended by Section 2 of Chapter 633 of the Statutes of 1998, is amended to read:

7030. (a) Every person licensed pursuant to this chapter shall include the following statement in at least 10-point type on all written contracts with respect to which the person is a prime contractor:

“Contractors are required by law to be licensed and regulated by the Contractors’ State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors’ State License Board, P.O. Box 26000, Sacramento, California 95826.”

(b) At the time of making a bid or prior to entering into a contract to perform work on residential property with four or fewer units, whichever occurs first, a contractor shall provide the following notice in capital letters in at least 10-point roman boldface type or in contrasting red print in at least 8-point roman boldface type:

“STATE LAW REQUIRES ANYONE WHO CONTRACTS TO DO CONSTRUCTION WORK TO BE LICENSED BY THE CONTRACTORS’ STATE LICENSE BOARD IN THE LICENSE CATEGORY IN WHICH THE CONTRACTOR IS GOING TO BE WORKING—IF THE TOTAL PRICE OF THE JOB IS \$500 OR MORE (INCLUDING LABOR AND MATERIALS).

LICENSED CONTRACTORS ARE REGULATED BY LAWS DESIGNED TO PROTECT THE PUBLIC. IF YOU CONTRACT WITH SOMEONE WHO DOES NOT HAVE A LICENSE, THE CONTRACTORS’ STATE LICENSE BOARD MAY BE UNABLE TO ASSIST YOU WITH A COMPLAINT. YOUR ONLY REMEDY AGAINST AN UNLICENSED CONTRACTOR MAY BE IN CIVIL COURT, AND YOU MAY BE LIABLE FOR DAMAGES ARISING OUT OF ANY INJURIES TO THE CONTRACTOR OR HIS OR HER EMPLOYEES.

YOU MAY CONTACT THE CONTRACTORS' STATE LICENSE BOARD TO FIND OUT IF THIS CONTRACTOR HAS A VALID LICENSE. THE BOARD HAS COMPLETE INFORMATION ON THE HISTORY OF LICENSED CONTRACTORS, INCLUDING ANY POSSIBLE SUSPENSIONS, REVOCATIONS, JUDGMENTS, AND CITATIONS. THE BOARD HAS OFFICES THROUGHOUT CALIFORNIA. PLEASE CHECK THE GOVERNMENT PAGES OF THE WHITE PAGES FOR THE OFFICE NEAREST YOU OR CALL 1-800-321-CSLB FOR MORE INFORMATION.”

(c) Failure to comply with the notice requirements set forth in subdivision (a) or (b) of this section is cause for disciplinary action.

(d) This section shall be repealed on January 1, 2006.

SEC. 5. Section 7030 of the Business and Professions Code, as amended by Section 2 of Chapter 566 of the Statutes of 2004, is amended to read:

7030. (a) Except for contractors writing home improvement contracts pursuant to Section 7151.2 and contractors writing service and repair contracts pursuant to Section 7159.10, every person licensed pursuant to this chapter shall include the following statement in at least 10-point type on all written contracts with respect to which the person is a prime contractor:

“Contractors are required by law to be licensed and regulated by the Contractors’ State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors’ State License Board, P.O. Box 26000, Sacramento, CA 95826.”

(b) Every person licensed pursuant to this chapter shall include the following statement in at least 12-point type in all home improvement contracts written pursuant to Section 7151.2 and service and repair contracts written pursuant to Section 7159.10:

“Information about the Contractors’ State License Board (CSLB): CSLB is the state consumer protection agency that licenses and regulates construction contractors.

Contact CSLB for information about the licensed contractor you are considering, including information about disclosable complaints, disciplinary actions and civil judgments that are reported to CSLB.

Use only licensed contractors. If you file a complaint against a licensed contractor within the legal deadline (usually four years), CSLB has authority to investigate the complaint. If you use an unlicensed contractor, CSLB may not be able to help you resolve your complaint. Your only remedy may be in civil court, and you may be liable for damages arising

out of any injuries to the unlicensed contractor or the unlicensed contractor's employees.

For more information:

Visit CSLB's Web site at www.cslb.ca.gov

Call CSLB at 800-321-CSLB (2752)

Write CSLB at P.O. Box 26000, Sacramento, CA 95826."

(c) Failure to comply with the notice requirements set forth in subdivision (a) or (b) of this section is cause for disciplinary action.

(d) This section shall become operative on January 1, 2006.

SEC. 6. Section 7159 of the Business and Professions Code, as amended by Section 4 of Chapter 982 of the Statutes of 1999, is amended to read:

7159. This section applies only to home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to the transaction and who contracts with an owner or tenant for work upon a residential building or structure, or upon land adjacent thereto, for proposed repairing, remodeling, altering, converting, modernizing, or adding to the residential building or structure or land adjacent thereto, and where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor, exceeds five hundred dollars (\$500).

Every home improvement contract and every contract, the primary purpose of which is the construction of a swimming pool, is subject to this section. Every contract and any changes in the contract subject to this section shall be evidenced by a writing and shall be signed by all the parties to the contract. The writing shall contain all of the following:

(a) The name, address, and license number of the contractor, and the name and registration number of any salesperson who solicited or negotiated the contract.

(b) The approximate dates when the work will begin and on which all construction is to be completed.

(c) A plan and scale drawing showing the shape, size, dimensions, and construction and equipment specifications for a swimming pool and for other home improvements, a description of the work to be done and description of the materials to be used and the equipment to be used or installed, and the agreed consideration for the work.

(d) If the payment schedule contained in the contract provides for a downpayment to be paid to the contractor by the owner or the tenant before the commencement of work, the downpayment may not exceed two hundred dollars (\$200) or 2 percent of the contract price for swimming pools, or one thousand dollars (\$1,000) or 10 percent of the contract price for other home improvements, excluding finance charges, whichever is less.

(e) A schedule of payments showing the amount of each payment as a sum in dollars and cents. In no event may the payment schedule provide

for the contractor to receive, nor may the contractor actually receive, payments in excess of 100 percent of the value of the work performed on the project at any time, excluding finance charges, except that the contractor may receive an initial downpayment authorized by subdivision (d). With respect to a swimming pool contract, the final payment may be made at the completion of the final plastering phase of construction, provided that any installation or construction of equipment, decking, or fencing required by the contract is also completed. A failure by the contractor without lawful excuse to substantially commence work within 20 days of the approximate date specified in the contract when work will begin shall postpone the next succeeding payment to the contractor for that period of time equivalent to the time between when substantial commencement was to have occurred and when it did occur. The schedule of payments shall be stated in dollars and cents, and shall be specifically referenced to the amount of work or services to be performed and to any materials and equipment to be supplied. With respect to a contract that provides for a schedule of monthly payments to be made by the owner or tenant and for a schedule of payments to be disbursed to the contractor by a person or entity to whom the contractor intends to assign the right to receive the owner's or tenant's monthly payments, the payments referred to in this subdivision mean the payments to be disbursed by the assignee and not those payments to be made by the owner or tenant.

(f) A statement that, upon satisfactory payment being made for any portion of the work performed, the contractor shall, prior to any further payment being made, furnish to the person contracting for the home improvement or swimming pool a full and unconditional release from any claim or mechanic's lien pursuant to Section 3114 of the Civil Code for that portion of the work for which payment has been made.

(g) The requirements set forth in subdivisions (d), (e), and (f) do not apply when the contract provides for the contractor to furnish a performance and payment bond, lien and completion bond, bond equivalent, or joint control approved by the registrar covering full performance and completion of the contract and the bonds or joint control is or are furnished by the contractor, or when the parties agree for full payment to be made upon or for a schedule of payments to commence after satisfactory completion of the project. The contract shall contain, in close proximity to the signatures of the owner and contractor, a notice in at least 10-point type stating that the owner or tenant has the right to require the contractor to have a performance and payment bond.

(h) No extra or change-order work may be required to be performed without prior written authorization of the person contracting for the construction of the home improvement or swimming pool. No change-order is enforceable against the person contracting for home improvement work or swimming pool construction unless it clearly sets forth the scope of work encompassed by the change-order and the price to be charged for the changes. Any change-order forms for changes or extra work shall be incorporated in, and become a part of, the contract. Failure

to comply with the requirements of this subdivision does not preclude the recovery of compensation for work performed based upon quasi-contract, quantum meruit, restitution, or other similar legal or equitable remedies designed to prevent unjust enrichment.

(i) If the contract provides for a payment of a salesperson's commission out of the contract price, that payment shall be made on a pro rata basis in proportion to the schedule of payments made to the contractor by the disbursing party in accordance with subdivision (e).

(j) The language of the notice required pursuant to Section 7018.5.

(k) What constitutes substantial commencement of work pursuant to the contract.

(l) A notice that failure by the contractor without lawful excuse to substantially commence work within 20 days from the approximate date specified in the contract when work will begin is a violation of the Contractors' State License Law.

(m) If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

A failure by the contractor without lawful excuse to substantially commence work within 20 days from the approximate date specified in the contract when work will begin is a violation of this section.

This section does not prohibit the parties to a home improvement contract from agreeing to a contract or account subject to Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code.

The writing may also contain other matters agreed to by the parties to the contract.

The writing shall be legible and shall be in a form that clearly describes any other document that is to be incorporated into the contract. Before any work is done, the owner shall be furnished a copy of the written agreement, signed by the contractor.

For purposes of this section, the board shall, by regulation, determine what constitutes "without lawful excuse."

The provisions of this section are not exclusive and do not relieve the contractor or any contract subject to it from compliance with all other applicable provisions of law.

A violation of this section by a licensee, or a person subject to be licensed, under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(n) Any person who violates this section as part of a plan or scheme to defraud an owner of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of

Section 1203.1b of the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code or for which an emergency or major disaster is declared by the President of the United States.

(o) (1) An indictment or information against a person who is not licensed, but who is required to be licensed under this chapter, shall be brought, or a criminal complaint filed, for a violation of this section within four years from the date the buyer signs the contract.

(2) An indictment or information against a person who is licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section within one year from the date the buyer signs the contract.

(3) The limitations on actions in this subdivision shall not apply to any administrative action filed against a licensed contractor.

(p) This section shall be repealed on January 1, 2006.

SEC. 7. Section 7159 of the Business and Professions Code, as added by Section 4 of Chapter 566 of the Statutes of 2004, is amended to read:

7159. This section and Sections 7159.3 to 7159.6, inclusive, apply to all home improvement contracts, as defined in Section 7151.2, between a contractor, whether a general or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to the transaction and who contracts with an owner or tenant for home improvement work, where the aggregate contract price specified in one or more improvement contracts, including all labor, services, and materials to be furnished by the contractor exceeds five hundred dollars (\$500), except that this section and Sections 7159.3 to 7159.6, inclusive, do not apply to service and repair contracts as defined in Section 7159.10.

A violation of this section by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is cause for discipline.

(a) A home improvement contract and any changes to the contract shall be in writing and signed by the parties.

(b) The writing shall be legible.

(c) Any printed form shall be readable. Unless a larger typeface is specified in this article, text in any printed form shall be in at least 10-point typeface and the headings shall be in at least 10-point boldface type.

(d) Before any work is started, the contractor shall give the buyer a copy of the contract signed and dated by both the contractor and the buyer. The buyer's receipt of the copy triggers the buyer's rights under the Home Solicitation Act, if the right to cancel is applicable, provided that the contract complies with the Home Solicitation Act.

(e) A change-order form for changes or extra work shall be incorporated into the contract and shall become part of the contract if it is in writing and signed by the parties.

(f) Change orders required by the building department at the jobsite shall be considered incorporated into the contract without being signed by both the parties.

(g) The provisions of this section are not exclusive and do not relieve the contractor from compliance with any other applicable provision of law.

(h) This section shall become operative on January 1, 2006.

SEC. 8. Section 7159.3 of the Business and Professions Code, as added by Section 10 of Chapter 1005 of the Statutes of 2000, is amended to read:

7159.3. (a) A home improvement contract and an estimate for home improvement work shall be accompanied by and include all of the following:

(1) A statement prepared by the board through regulation that emphasizes the value of commercial general liability insurance and encourages the owner or tenant to verify the contractor's insurance coverage and status.

(2) A check box indicating whether or not the contractor carries commercial general liability insurance, and if that is the case, the name and the telephone number of the insurer.

(3) A checklist prepared by the board through regulation setting forth the items that an owner contracting for home improvement should consider when reviewing a proposed home improvement contract.

(b) This section shall become operative three months after the board adopts the regulations referenced in paragraph (1) of subdivision (a).

(c) This section shall be repealed on January 1, 2006.

SEC. 9. Section 7159.3 of the Business and Professions Code, as added by Section 6 of Chapter 566 of the Statutes of 2004, is amended to read:

7159.3. This section applies to all home improvement contracts, as defined in Section 7151.2, between an owner or tenant and a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to the transaction. Failure by the licensee, or a person subject to be licensed under this chapter, or by his or her agent or salesperson, to provide the following information, notices, and disclosures in the contract is cause for discipline:

(a) The name, business address, and license number of the contractor and the description of the license classification relevant to the project.

(b) The name and registration number of the home improvement salesperson, if any.

(c) A notice concerning commercial general liability insurance. This notice may be provided as an attachment to the contract if the contract includes the statement, "A notice concerning commercial general liability insurance is attached to this contract." The notice shall include the heading "Commercial General Liability Insurance (CGL)," followed by whichever of the following statements is both relevant and correct:

(1) “(The name on the license or ‘This contractor’) does not carry commercial general liability insurance.”

(2) “(The name on the license or ‘This contractor’) carries commercial general liability insurance written by (the insurance company). You may call the (insurance company) at _____ to check the contractor’s insurance coverage.”

(3) “(The name on the license or ‘This contractor’) is self-insured.”

(d) A notice concerning workers’ compensation insurance. This notice may be provided as an attachment to the contract if the contract includes the statement “A notice concerning workers’ compensation insurance is attached to this contract.” The notice shall include the heading “Workers’ Compensation Insurance” followed by whichever of the following statements is correct:

(1) “(The name on the license or ‘This contractor’) has no employees and is exempt from workers’ compensation requirements.”

(2) “(The name on the license or ‘This contractor’) carries workers’ compensation insurance for all employees.”

(e) This section shall become operative on January 1, 2006.

SEC. 10. Section 7159.4 of the Business and Professions Code is amended to read:

7159.4. This section applies to all home improvement contracts, as defined in Section 7151.2, between an owner or tenant and a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to the transaction. Failure by the licensee, or a person subject to be licensed under this chapter, or by his or her agent or salesperson, to provide the following information, notices, and disclosures in the contract is cause for discipline:

(a) Notice of the type of contract in at least 10-point boldface type: “Home Improvement.”

(b) The notice in at least 12-point boldface type: “Notice to the Buyer: You are entitled to a completely filled in copy of this agreement, signed by both you and the contractor, before any work may be started.”

(c) The heading: “Contract Price,” followed by the amount of the contract in dollars and cents.

(d) If a finance charge will be charged, the heading: “Finance Charge” followed by the amount in dollars and cents. The finance charge is to be set out separately from the contract amount.

(e) The heading: “Description of the Project and Description of the Significant Materials to be Used and Equipment to be Installed,” followed by a description of the project and a description of the significant materials to be used and equipment to be installed.

(f) For swimming pools, in addition to the project description required under subdivision (e), a plan and scale drawing showing the shape, size, dimensions, and the construction and equipment specifications.

(g) If a downpayment will be charged, the heading: “Downpayment” and a space where the actual downpayment appears followed by the text in

at least 12-point boldface type: “THE DOWNPAYMENT MAY NOT EXCEED \$1,000 OR 10 PERCENT OF THE CONTRACT PRICE, WHICHEVER IS LESS.”

(h) If any payment, besides the downpayment, is to be made before the project is completed, the contract shall include a schedule with a heading labeled “Schedule of Progress Payments,” stated in dollars and cents and specifically referencing the amount of work or services to be performed and any materials and equipment to be supplied, and the following statement in at least 12-point boldface type:

“The schedule of progress payments must specifically describe each phase of work, including the type and amount of work or services scheduled to be supplied in each phase, along with the amount of each proposed progress payment. IT IS AGAINST THE LAW FOR A CONTRACTOR TO COLLECT PAYMENT FOR WORK NOT YET COMPLETED, OR FOR MATERIALS NOT YET DELIVERED. HOWEVER, A CONTRACTOR MAY REQUIRE A DOWNPAYMENT.”

(i) The heading: “Approximate Start Date” and “Approximate Completion Date,” each followed by the approximate dates for start and completion.

(j) If applicable, the heading, “List of Documents to be Incorporated into the Contract,” followed by the list of documents incorporated into the contract.

(k) The heading: “Note about Extra Work and Change Orders” followed by the following statement:

“Extra Work and Change Orders become part of the contract once the order is prepared in writing and signed by the parties. The order must describe the scope of the extra or change, the cost to be added or subtracted from the contract, and the effect the order will have on the schedule of progress payments. Change orders required by the building department at the jobsite shall be considered incorporated into the contract without being signed by both parties.”

(l) (1) Except when the contract is negotiated at the contractor’s place of business, the statement found in paragraph (4) of subdivision (a) of Section 1689.7 of the Civil Code for the three-day right to cancel or the statement found in paragraph (2) of subdivision (e) of Section 1689.7 for the seven-day right to cancel, whichever is relevant. A statement that complies with Section 1689.7 may be attached to the contract if the contract includes a checkbox and whichever statement is relevant in at least 12-point boldface type:

(A) “The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a ‘Notice of the Three-Day Right to Cancel.’”

(B) “The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a ‘Notice of the Seven-Day Right to Cancel.’”

(2) This subdivision does not apply to home improvement contracts entered into by a person who holds an alarm company operator's license issued pursuant to Chapter 11.6 (commencing with Section 7590), provided the person complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

(m) The signatures of the contractor or the contractor's representative, and the buyer.

(n) The date the contract was signed.

(o) A statement with the heading "Mechanics' Lien Warning" as follows:

"MECHANICS LIEN WARNING:

Anyone who helps improve your property, but who is not paid, may record what is called a mechanics' lien on your property. A mechanics' lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics' liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a '20-day Preliminary Notice.' This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if he or she is not paid.

BE CAREFUL. The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

PROTECT YOURSELF FROM LIENS. You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

PAY WITH JOINT CHECKS. One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB's Web site at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME. This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe.”

(p) This section shall become operative on January 1, 2006.

SEC. 11. Section 7159.5 of the Business and Professions Code is amended to read:

7159.5. This section applies to all home improvement contracts, as defined in Section 7151.2, between an owner or tenant and a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to the transaction.

(a) Failure by the licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson to comply with the following provisions is cause for discipline:

(1) The contract shall include the agreed contract amount in dollars and cents. The contract amount shall include the entire cost of the contract, including profit, labor, and materials, but excluding finance charges.

(2) If there is a separate finance charge between the contractor and the person contracting for home improvement, the finance charge shall be set out separately from the contract amount.

(3) If a downpayment will be charged, the downpayment may not exceed one thousand dollars (\$1,000) or 10 percent of the contract amount, whichever is less.

(4) If, in addition to a down payment, the contract provides for payments to be made prior to completion of the work, the contract shall include a schedule of payments in dollars and cents specifically referencing the amount of work or services to be performed and any materials and equipment to be supplied.

(5) Except for a downpayment, the contractor may neither request nor accept payment that exceeds the value of the work performed or material delivered.

(6) Upon any payment by the person contracting for home improvement, and prior to any further payment being made, the contractor shall, if requested, obtain and furnish to the person a full and unconditional release from any potential lien claimant claim or mechanic's lien pursuant to Section 3114 of the Civil Code for any portion of the work for which payment has been made. The person contracting for home improvement may withhold all further payments until these releases are furnished.

(7) If the contract provides for a payment of a salesperson's commission out of the contract price, that payment shall be made on a pro rata basis in proportion to the schedule of payments made to the contractor by the disbursing party in accordance with paragraph (4).

(8) A contractor furnishing a performance and payment bond, lien and completion bond, or a bond equivalent or joint control approved by the registrar covering full performance and payment is exempt from paragraphs (3), (4), and (5), and need not include, as part of the contract,

the Mechanics' Lien Warning found in subdivision (o) of Section 7159.4. A contractor furnishing these bonds, bond equivalents, or a joint control approved by the registrar may accept payment prior to completion. If the contract provides for a contractor to furnish joint control, the contractor shall not have any financial or other interest in the joint control.

(b) A violation of paragraph (1), (3), or (5) of subdivision (a) by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both fine and imprisonment.

(1) An indictment or information against a person who is not licensed but who is required to be licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section within four years from the date the buyer signs the contract.

(2) An indictment or information against a person who is licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section within two years from the date the buyer signs the contract.

(3) The limitations on actions in this subdivision shall not apply to any administrative action filed against a licensed contractor.

(c) Any person who violates this section as part of a plan or scheme to defraud an owner or tenant of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.

(d) This section shall become operative on January 1, 2006.

SEC. 12. Section 7159.6 of the Business and Professions Code is amended to read:

7159.6. (a) An extra work or change order is not enforceable against a buyer unless the change order sets forth all of the following:

- (1) The scope of work encompassed by the order.
- (2) The amount to be added or subtracted from the contract.
- (3) The effect the order will make in the progress payments or the completion date.

(b) The buyer may not require a contractor to perform extra or change-order work without providing written authorization.

(c) Failure to comply with the requirements of this section does not preclude the recovery of compensation for work performed based upon legal or equitable remedies designed to prevent unjust enrichment.

(d) This section shall become operative on January 1, 2006.

SEC. 13. Section 7159.10 of the Business and Professions Code is amended to read:

7159.10. (a) “Service and repair contract” means an agreement between a contractor or salesperson for a contractor, whether a general contractor or a specialty contractor, who is licensed or subject to be licensed pursuant to this chapter with regard to the transaction, and a homeowner or a tenant, for the performance of a home improvement as defined in Section 7151, that meets the following requirements:

(1) The contract amount is seven hundred fifty dollars (\$750) or less.

(2) The prospective buyer initiated contact with the contractor to request the work.

(3) The contractor does not sell the buyer goods or services beyond those reasonably necessary to take care of the particular problem that caused the buyer to contact the contractor.

(4) No payment is due until the work is completed.

(b) A bona fide service repairperson employed by a licensed contractor or subcontractor hired by a licensed contractor may enter into a service and repair contract on behalf of that contractor.

(c) This section shall become operative on January 1, 2006.

SEC. 14. Section 7159.11 of the Business and Professions Code is amended to read:

7159.11. This section applies to service and repair contracts as defined in Section 7159.10. A violation of this section by a licensee, or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is cause for discipline.

(a) A service and repair contract and any changes to the contract shall be in writing and signed by the parties.

(b) The writing shall be legible.

(c) Any printed form shall be readable. Unless a larger typeface is specified in this article, the text shall be in at least 10-point typeface and the headings shall be in at least 10-point boldface type.

(d) Before any work is started, the contractor shall give the buyer a copy of the contract signed and dated by the buyer and the contractor. The buyer’s receipt of the copy triggers the buyer’s rights under the Home Solicitation Act, if the right to cancel is applicable, provided that the contract complies with the Home Solicitation Act.

(e) The provisions of this section are not exclusive and do not relieve the contractor from compliance with any other applicable provision of law.

(f) This section shall become operative on January 1, 2006.

SEC. 15. Section 7159.12 of the Business and Professions Code is amended to read:

7159.12. This section applies to service and repair contracts, as defined in Section 7159.10. Failure by the licensee, or a person subject to be

licensed under this chapter, or by his or her agent or salesperson, to provide the following information, notices, and disclosures in the contract is cause for discipline:

(a) The name, business address, and license number of the contractor and the description of the license classification relevant to the project.

(b) The name and registration number of the home improvement salesperson, if any.

(c) A notice concerning commercial general liability insurance. This notice may be provided as an attachment to the contract if the contract includes the statement, "The notice concerning commercial general liability insurance is attached to this contract." The notice shall include the heading "Commercial General Liability Insurance (CGL)" followed by whichever of the following statements is both relevant and correct:

(1) "(The name on the license or 'This contractor') does not carry commercial general liability insurance."

(2) "(The name on the license or 'This contractor') carries commercial general liability insurance written by (the insurance company). You may call the (insurance company) at _____ to check the contractor's insurance coverage."

(3) "(The name on the license or 'This contractor') is self-insured."

(d) A notice concerning workers' compensation insurance. This notice may be provided as an attachment to the contract if the contract includes the statement "A notice concerning workers' compensation insurance is attached to this contract." The notice shall include the heading "Workers' Compensation Insurance" followed by whichever of the following statements is correct:

(1) "(The name on the license or 'This contractor') has no employees and is exempt from workers' compensation requirements."

(2) "(The name on the license or 'This contractor') carries workers' compensation insurance for all employees."

(e) This section shall become operative on January 1, 2006.

SEC. 16. Section 7159.13 of the Business and Professions Code is amended to read:

7159.13. This section applies to service and repair contracts as defined in Section 7159.10. Failure by the licensee, or a person subject to be licensed under this chapter, or by his or her agent or salesperson, to provide the following information, notices, and disclosures in the contract is cause for discipline:

(a) Notice of the type of contract in at least 10-point boldface type: "Service and Repair."

(b) A notice in at least 12-point boldface type, signed and dated by the buyer: "Notice to the Buyer: The law requires that service and repair contracts must meet all of the following requirements:

(1) The price must be no more than seven hundred and fifty dollars (\$750).

(2) You, the buyer, must have initiated contact with the contractor to request the work.

(3) The contractor must not sell you goods or services beyond those reasonably necessary to take care of the particular problem that caused you to contact the contractor.

(4) No payment is due until the work is completed.”

(c) The notice in at least 12-point boldface type: “Notice to the Buyer: You are entitled to a completely filled in and signed copy of this agreement before any work may be started.”

(d) Where the contract is a fixed contract amount, the heading: “Contract Price” followed by the amount of the contract in dollars and cents.

(e) If a finance charge will be charged, the heading: “Finance Charge” followed by the amount in dollars and cents. The finance charge is to be set out separately from the contract amount.

(f) Where the contract is estimated by a time and materials formula, the heading “Estimated Contract Price” followed by the estimated contract amount in dollars and cents. The contract must disclose the set rate and the estimated cost of materials. The contract must also disclose how time will be computed: for example, in increments of quarter hours, half hours, or hours, and the statement: “The actual contract amount of a time and materials contract may not exceed the estimated contract amount without written authorization from the buyer.”

(g) The heading: “Description of the Project and Materials to be Used and Equipment to be Installed” followed by a description of the project and materials to be used and equipment to be installed.

(h) The heading: “The law requires that the contractor offer you any parts that were replaced during the service call. If you do not want the parts, initial the checkbox labeled ‘OK for contractor to take replaced parts.’”

(i) A checkbox labeled “OK for contractor to take replaced parts.”

(j) If a service charge is charged, the heading “Amount of Service Charge” followed by the service charge, and the statement “You may be charged only one service charge, including any trip charge or inspection fee”.

(k) If applicable, the heading “List of documents to be incorporated into the contract,” followed by the list of documents to be incorporated into the contract.

(l) (1) Except when the contract is negotiated at the contractor’s place of business, the statement found in paragraph (5) of subdivision (a) of Section 1689.7 of the Civil Code for the right to cancel or the statement found in paragraph (2) of subdivision (e) of Section 1689.7 for the right to cancel, whichever is relevant. A statement that complies with Section 1689.7 may be attached to the contract if the contract includes a checkbox and whichever statement is relevant in at least 12-point boldface type:

(A) “The law requires that the contractor give you a notice explaining your right to cancel. Initial the checkbox if the contractor has given you a ‘Notice of Your Right to Cancel.’”

(B) “The law requires that the contractor give you a notice explaining your right to cancel contracts for the repair or restoration of residential premises damaged by a disaster. Initial the checkbox if the contractor has given you a ‘Notice of Your Right to Cancel.’”

(2) This subdivision does not apply to home improvement contracts entered into by a person who holds an alarm company operator’s license issued pursuant to Chapter 11.6 (commencing with Section 7590), provided the person complies with Sections 1689.5, 1689.6, and 1689.7 of the Civil Code, as applicable.

(m) The signatures of the contractor or the contractor’s representative, and the buyer.

(n) The date the contract was signed.

(o) This section shall become operative on January 1, 2006.

SEC. 17. Section 7159.14 of the Business and Professions Code is amended to read:

7159.14. (a) This section applies to a service and repair contract as defined in Section 7159.10. A violation of this section by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is cause for discipline.

(1) The contract may not exceed seven hundred fifty dollars (\$750).

(2) The contract shall state the agreed contract amount, which may be stated as either a fixed contract amount in dollars and cents or, if a time and materials formula is used, as an estimated contract amount in dollars and cents.

(3) The contract amount shall include the entire cost of the contract including profit, labor and materials but excluding finance charges.

(4) The actual contract amount of a time and materials contract may not exceed the estimated contract amount without written authorization from the buyer.

(5) The prospective buyer must have initiated contact with the contractor to request work.

(6) The contractor may not sell the buyer goods or services beyond those reasonably necessary to take care of the particular problem that caused the buyer to contact the contractor.

(7) No payment may be due before the project is completed.

(8) A service and repair contractor may charge only one service charge. For purposes of this chapter, a service charge includes such charges as a service or trip charge, or an inspection fee.

(9) A service and repair contractor charging a service charge must disclose in all advertisements that there is a service charge and, when the customer initiates the call for service, must disclose the amount of the service charge.

(10) The service and repair contractor must offer to the customer any parts that were replaced.

(11) Upon any payment by the buyer, the contractor shall, if requested, obtain and furnish to the buyer a full and unconditional release from any potential lien claimant claim or mechanics’ lien pursuant to Section 3114

of the Civil Code for any portion of the work for which payment has been made.

(b) A violation of paragraph (1), (2), (3), (4), (5), (6), or (8) of subdivision (a) by a licensee or a person subject to be licensed under this chapter, or by his or her agent or salesperson, is a misdemeanor punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000) or by imprisonment in a county jail not exceeding one year, or by both fine and imprisonment.

(1) An indictment or information against a person who is not licensed but who is required to be licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section within four years from the date the buyer signs the contract.

(2) An indictment or information against a person who is licensed under this chapter shall be brought, or a criminal complaint filed, for a violation of this section within two years from the date the buyer signs the contract.

(3) The limitations on actions in this subdivision shall not apply to any administrative action filed against a licensed contractor.

(c) Any person who violates this section as part of a plan or scheme to defraud an owner or tenant of a residential or nonresidential structure, including a mobilehome or manufactured home, in connection with the offer or performance of repairs to the structure for damage caused by a natural disaster, shall be ordered by the court to make full restitution to the victim based on the person's ability to pay, as defined in subdivision (e) of Section 1203.1b of the Penal Code. In addition to full restitution, and imprisonment authorized by this section, the court may impose a fine of not less than five hundred dollars (\$500) nor more than twenty-five thousand dollars (\$25,000), based upon the defendant's ability to pay. This subdivision applies to natural disasters for which a state of emergency is proclaimed by the Governor pursuant to Section 8625 of the Government Code, or for which an emergency or major disaster is declared by the President of the United States.

(d) This section shall become operative on January 1, 2006.

SEC. 18. Section 7164 of the Business and Professions Code is amended to read:

7164. (a) Notwithstanding Section 7044, every contract and any changes in a contract, between an owner and a contractor, for the construction of a single-family dwelling to be retained by the owner for at least one year shall be evidenced in writing signed by both parties.

(b) The writing shall contain the following:

(1) The name, address, and license number of the contractor.

(2) The approximate dates when the work will begin and be substantially completed.

(3) A legal description of the location where the work will be done.

(4) The language of the notice required pursuant to Section 7018.5.

(5) (A) A statement prepared by the board through regulation that emphasizes the value of commercial general liability insurance and

encourages the owner to verify the contractor's insurance coverage and status.

(B) A check box indicating whether or not the contractor carries commercial general liability insurance, and if that is the case, the name and the telephone number of the insurer.

(c) The writing may also contain other matters agreed to by the parties to the contract. The writing shall be legible and shall clearly describe any other document which is to be incorporated into the contract. Prior to commencement of any work, the owner shall be furnished a copy of the written agreement, signed by the contractor. The provisions of this section are not exclusive and do not relieve the contractor from compliance with all other applicable provisions of law.

(d) Every contract subject to the provisions of this section shall contain, in close proximity to the signatures of the owner and contractor, a notice in at least 10-point bold type or in all capital letters, stating that the owner has the right to require the contractor to have a performance and payment bond and that the expense of the bond may be borne by the owner.

(e) The requirements in paragraph (5) of subdivision (b) shall become operative three months after the board adopts the regulations referenced in subparagraph (A) of paragraph (5) of subdivision (b).

(f) This section shall be repealed on January 1, 2006.

SEC. 19. Section 7164 is added to the Business and Professions Code, to read:

7164. (a) Notwithstanding Section 7044, every contract and any changes in a contract, between an owner and a contractor, for the construction of a single-family dwelling to be retained by the owner for at least one year shall be evidenced in writing signed by both parties.

(b) The writing shall contain the following:

(1) The name, address, and license number of the contractor.

(2) The approximate dates when the work will begin and be substantially completed.

(3) A legal description of the location where the work will be done.

(4) A statement with the heading "Mechanics' Lien Warning" as follows:

"MECHANICS LIEN WARNING:

Anyone who helps improve your property, but who is not paid, may record what is called a mechanics' lien on your property. A mechanics' lien is a claim, like a mortgage or home equity loan, made against your property and recorded with the county recorder.

Even if you pay your contractor in full, unpaid subcontractors, suppliers, and laborers who helped to improve your property may record mechanics' liens and sue you in court to foreclose the lien. If a court finds the lien is valid, you could be forced to pay twice or have a court officer sell your home to pay the lien. Liens can also affect your credit.

To preserve their right to record a lien, each subcontractor and material supplier must provide you with a document called a '20-day Preliminary

Notice.’ This notice is not a lien. The purpose of the notice is to let you know that the person who sends you the notice has the right to record a lien on your property if he or she is not paid.

BE CAREFUL. The Preliminary Notice can be sent up to 20 days after the subcontractor starts work or the supplier provides material. This can be a big problem if you pay your contractor before you have received the Preliminary Notices.

You will not get Preliminary Notices from your prime contractor or from laborers who work on your project. The law assumes that you already know they are improving your property.

PROTECT YOURSELF FROM LIENS. You can protect yourself from liens by getting a list from your contractor of all the subcontractors and material suppliers that work on your project. Find out from your contractor when these subcontractors started work and when these suppliers delivered goods or materials. Then wait 20 days, paying attention to the Preliminary Notices you receive.

PAY WITH JOINT CHECKS. One way to protect yourself is to pay with a joint check. When your contractor tells you it is time to pay for the work of a subcontractor or supplier who has provided you with a Preliminary Notice, write a joint check payable to both the contractor and the subcontractor or material supplier.

For other ways to prevent liens, visit CSLB’s Web site at www.cslb.ca.gov or call CSLB at 800-321-CSLB (2752).

REMEMBER, IF YOU DO NOTHING, YOU RISK HAVING A LIEN PLACED ON YOUR HOME. This can mean that you may have to pay twice, or face the forced sale of your home to pay what you owe.”

(5) (A) A statement prepared by the board through regulation that emphasizes the value of commercial general liability insurance and encourages the owner to verify the contractor’s insurance coverage and status.

(B) A check box indicating whether or not the contractor carries commercial general liability insurance, and if that is the case, the name and the telephone number of the insurer.

(c) The writing may also contain other matters agreed to by the parties to the contract. The writing shall be legible and shall clearly describe any other document which is to be incorporated into the contract. Prior to commencement of any work, the owner shall be furnished a copy of the written agreement, signed by the contractor. The provisions of this section are not exclusive and do not relieve the contractor from compliance with all other applicable provisions of law.

(d) Every contract subject to the provisions of this section shall contain, in close proximity to the signatures of the owner and contractor, a notice in at least 10-point bold type or in all capital letters, stating that the owner has the right to require the contractor to have a performance and payment bond and that the expense of the bond may be borne by the owner.

(e) The requirements in paragraph (5) of subdivision (b) shall become operative three months after the board adopts the regulations referenced in subparagraph (A) of paragraph (5) of subdivision (b).

(f) This section shall become operative on January 1, 2006.

SEC. 20. Section 7167 of the Business and Professions Code is amended to read:

7167. (a) Any contract the primary purpose of which is the construction of a swimming pool which does not substantially comply with the applicable provisions of subdivisions (b), (c), (d), (e), (f), and (h) of Section 7159, shall be void and unenforceable by the contractor as contrary to public policy.

(b) This section shall be repealed on January 1, 2006.

SEC. 21. Section 7167 is added to the Business and Professions Code, to read:

7167. (a) Except as otherwise provided by this section, a contract, the primary purpose of which is the construction of a swimming pool, that does not substantially comply with the provisions of Section 7159.4, shall be void and unenforceable by the contractor as contrary to public policy.

(b) Failure to comply with subdivision (k) of Section 7159.4 does not preclude the recovery of compensation for work performed based on quasi-contract, quantum meruit, restitution, or other similar legal or equitable remedies designed to prevent unjust enrichment.

(c) This section shall be operative on January 1, 2006.

SEC. 22. Section 1689.5 of the Civil Code, as amended by Section 1 of Chapter 51 of the 1st Extraordinary Session of the Statutes of 1994, is amended to read:

1689.5. As used in Sections 1689.6 to 1689.11, inclusive, and in Section 1689.14:

(a) “Home solicitation contract or offer” means any contract, whether single or multiple, or any offer which is subject to approval, for the sale, lease, or rental of goods or services or both, made at other than appropriate trade premises in an amount of twenty-five dollars (\$25) or more, including any interest or service charges. “Home solicitation contract” does not include any contract under which the buyer has the right to rescind pursuant to Title 1, Chapter 2, Section 125 of the Federal Consumer Credit Protection Act (P.L. 90-321) and the regulations promulgated pursuant thereto, or any contract for repair services with a contractor who is duly licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, if (1) the contract price is less than one hundred dollars (\$100), (2) the negotiation between the parties was initiated by the prospective buyer, and (3) the contract contains a written and dated statement signed by the prospective buyer stating that the negotiation between the parties was initiated by the prospective buyer.

(b) “Appropriate trade premises,” means premises where either the owner or seller normally carries on a business, or where goods are

normally offered or exposed for sale in the course of a business carried on at those premises.

(c) “Goods” means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for these goods, and including goods that, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of the real property whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code, nor any goods sold with this vehicle if sold under a contract governed by Section 2982, and does not include any mobilehome, as defined in Section 18008 of the Health and Safety Code, nor any goods sold with this mobilehome if either are sold under a contract subject to Section 18036.5 of the Health and Safety Code.

(d) “Services” means work, labor and services, including, but not limited to, services furnished in connection with the repair, restoration, alteration, or improvement of residential premises, or services furnished in connection with the sale or repair of goods as defined in Section 1802.1, and courses of instruction, regardless of the purpose for which they are taken, but does not include the services of attorneys, real estate brokers and salesmen, securities dealers or investment counselors, physicians, optometrists, or dentists, nor financial services offered by banks, savings institutions, credit unions, industrial loan companies, personal property brokers, consumer finance lenders, or commercial finance lenders, organized pursuant to state or federal law, that are not connected with the sale of goods or services, as defined herein, nor the sale of insurance that is not connected with the sale of goods or services as defined herein, nor services in connection with the sale or installation of mobilehomes or of goods sold with a mobilehome if either are sold or installed under a contract subject to Section 18036.5 of the Health and Safety Code, nor services for which the tariffs, rates, charges, costs, or expenses, including in each instance the time sale price, is required by law to be filed with and approved by the federal government or any official, department, division, commission, or agency of the United States or of the state.

(e) “Business day” means any calendar day except Sunday, or the following business holidays: New Year’s Day, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans’ Day, Thanksgiving Day, and Christmas Day.

(f) This section shall be repealed on January 1, 2006.

SEC. 23. Section 1689.5 of the Civil Code, as amended by Section 15 of Chapter 566 of the Statutes of 2004, is amended to read:

1689.5. As used in Sections 1689.6 to 1689.11, inclusive, and in Section 1689.14:

(a) “Home solicitation contract or offer” means any contract, whether single or multiple, or any offer which is subject to approval, for the sale, lease, or rental of goods or services or both, made at other than appropriate trade premises in an amount of twenty-five dollars (\$25) or more, including any interest or service charges. “Home solicitation contract”

does not include any contract under which the buyer has the right to rescind pursuant to Title 1, Chapter 2, Section 125 of the Federal Consumer Credit Protection Act (P.L. 90-321) and the regulations promulgated pursuant thereto.

(b) “Appropriate trade premises,” means premises where either the owner or seller normally carries on a business, or where goods are normally offered or exposed for sale in the course of a business carried on at those premises.

(c) “Goods” means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for these goods, and including goods that, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of the real property whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code, nor any goods sold with this vehicle if sold under a contract governed by Section 2982, and does not include any mobilehome, as defined in Section 18008 of the Health and Safety Code, nor any goods sold with this mobilehome if either are sold under a contract subject to Section 18036.5 of the Health and Safety Code.

(d) “Services” means work, labor and services, including, but not limited to, services furnished in connection with the repair, restoration, alteration, or improvement of residential premises, or services furnished in connection with the sale or repair of goods as defined in Section 1802.1, and courses of instruction, regardless of the purpose for which they are taken, but does not include the services of attorneys, real estate brokers and salesmen, securities dealers or investment counselors, physicians, optometrists, or dentists, nor financial services offered by banks, savings institutions, credit unions, industrial loan companies, personal property brokers, consumer finance lenders, or commercial finance lenders, organized pursuant to state or federal law, that are not connected with the sale of goods or services, as defined herein, nor the sale of insurance that is not connected with the sale of goods or services as defined herein, nor services in connection with the sale or installation of mobilehomes or of goods sold with a mobilehome if either are sold or installed under a contract subject to Section 18036.5 of the Health and Safety Code, nor services for which the tariffs, rates, charges, costs, or expenses, including in each instance the time sale price, is required by law to be filed with and approved by the federal government or any official, department, division, commission, or agency of the United States or of the state.

(e) “Business day” means any calendar day except Sunday, or the following business holidays: New Year’s Day, Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans’ Day, Thanksgiving Day, and Christmas Day.

(f) This section shall become operative on January 1, 2006.

SEC. 24. Section 1689.6 of the Civil Code, as amended by Section 2 of Chapter 51 of the 1st Extraordinary Session of the Statutes of 1994, is amended to read:

1689.6. (a) In addition to any other right to revoke an offer, the buyer has the right to cancel a home solicitation contract or offer until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase which complies with Section 1689.7.

(b) In addition to any other right to revoke an offer, any buyer has the right to cancel a home solicitation contract or offer for the purchase of a personal emergency response unit until midnight of the seventh business day after the day on which the buyer signs an agreement or offer to purchase which complies with Section 1689.7. This subdivision shall not apply to a personal emergency response unit installed with, and as part of, a home security alarm system subject to the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code) which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, which shall instead be subject to subdivision (a).

(c) In addition to any other right to revoke an offer, a buyer has the right to cancel a home solicitation contract or offer for the repair or restoration of residential premises damaged by a disaster that was not void pursuant to Section 1689.14, until midnight of the seventh business day after the buyer signs and dates the contract.

(d) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address specified in the agreement or offer.

(e) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(f) Notice of cancellation given by the buyer need not take the particular form as provided with the contract or offer to purchase and, however expressed, is effective if it indicates the intention of the buyer not to be bound by the home solicitation contract or offer.

(g) "Personal emergency response unit," for purposes of this section, means an in-home radio transmitter device or two-way radio device generally, but not exclusively, worn on a neckchain, wrist strap, or clipped to clothing, and connected to a telephone line through which a monitoring station is alerted of an emergency and emergency assistance is summoned.

(h) This section shall be repealed on January 1, 2006.

SEC. 25. Section 1689.6 of the Civil Code, as amended by Section 16 of Chapter 566 of the Statutes of 2004, is amended to read:

1689.6. (a) (1) Except for a contract written pursuant to Section 7151.2 or 7159.10 of the Business and Professions Code, in addition to any other right to revoke an offer, the buyer has the right to cancel a home solicitation contract or offer until midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase which complies with Section 1689.7.

(2) In addition to any other right to revoke an offer, the buyer has the right to cancel a home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code until midnight of the third business day after the buyer receives a signed and dated copy of the

contract or offer to purchase that complies with Section 1689.7 of this code.

(3) In addition to any other right to revoke an offer, the buyer has the right to cancel a home solicitation contract or offer to purchase written pursuant to Section 7159.10 of the Business and Professions Code, until the buyer receives a signed and dated copy of a service and repair contract that complies with Section 1689.7 of this code and meets the contract requirements found in Section 7159.10 of the Business and Professions Code and the work commences.

(b) In addition to any other right to revoke an offer, any buyer has the right to cancel a home solicitation contract or offer for the purchase of a personal emergency response unit until midnight of the seventh business day after the day on which the buyer signs an agreement or offer to purchase which complies with Section 1689.7. This subdivision shall not apply to a personal emergency response unit installed with, and as part of, a home security alarm system subject to the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code) which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, which shall instead be subject to subdivision (a).

(c) In addition to any other right to revoke an offer, a buyer has the right to cancel a home solicitation contract or offer for the repair or restoration of residential premises damaged by a disaster that was not void pursuant to Section 1689.14, until midnight of the seventh business day after the buyer signs and dates the contract.

(d) Cancellation occurs when the buyer gives written notice of cancellation to the seller at the address specified in the agreement or offer.

(e) Notice of cancellation, if given by mail, is effective when deposited in the mail properly addressed with postage prepaid.

(f) Notice of cancellation given by the buyer need not take the particular form as provided with the contract or offer to purchase and, however expressed, is effective if it indicates the intention of the buyer not to be bound by the home solicitation contract or offer.

(g) “Personal emergency response unit,” for purposes of this section, means an in-home radio transmitter device or two-way radio device generally, but not exclusively, worn on a neckchain, wrist strap, or clipped to clothing, and connected to a telephone line through which a monitoring station is alerted of an emergency and emergency assistance is summoned.

(h) This section shall become operative on January 1, 2006.

SEC. 26. Section 1689.7 of the Civil Code, as amended by Section 3 of Chapter 51 of the 1st Extraordinary Session of the Statutes of 1994, is amended to read:

1689.7. (a) (1) In a home solicitation contract or offer the buyer’s agreement or offer to purchase shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation, shall be dated, signed by the buyer, and except as provided in paragraph (2), shall contain

in immediate proximity to the space reserved for his or her signature a conspicuous statement in a size equal to at least 10-point bold type, as follows: “You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.”

(2) The statement required pursuant to this subdivision for a home solicitation contract or offer for the purchase of a personal emergency response unit, as defined in Section 1689.6, which is not installed with and as part of a home security alarm system subject to the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code) which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, is as follows: “You, the buyer, may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.”

(3) The statement required pursuant to this subdivision for the repair or restoration of residential premises damaged by a disaster pursuant to subdivision (c) of Section 1689.6 is as follows: “You, the buyer, may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.”

(b) The agreement or offer to purchase shall contain on the first page, in a type size no smaller than that generally used in the body of the document, the following: (1) the name and address of the seller to which the notice is to be mailed, and (2) the date the buyer signed the agreement or offer to purchase.

(c) Except as provided in subdivision (d), the agreement or offer to purchase shall be accompanied by a completed form in duplicate, captioned “Notice of Cancellation” which shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain in type of at least 10-point the following statement written in the same language, e.g., Spanish, as used in the contract:

“Notice of Cancellation”

/enter date of transaction/

(Date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to _____ ,
/name of seller/

at _____
/address of seller's place of business/

not later than midnight of _____ .
(Date)

I hereby cancel this transaction. _____
(Date)

(Buyer's signature)

(d) Any agreement or offer to purchase a personal emergency response unit, as defined in Section 1689.6, which is not installed with and as part of a home security alarm system subject to the Alarm Company Act which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, shall be subject to the requirements of subdivision (c), and shall be accompanied by the "Notice of Cancellation" required by subdivision (c), except that the first paragraph of that notice shall be deleted and replaced with the following paragraph:

You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

(e) Any agreement or offer to purchase services for the repair or restoration of residential premises damaged by a disaster that is subject to subdivision (c) of Section 1689.6, shall be subject to the requirements of subdivision (c) of this section, and shall be accompanied by the "Notice of Cancellation" required by subdivision (c) of this section, except that the first paragraph of that notice shall be deleted and replaced with the following paragraph:

You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

(f) The seller shall provide the buyer with a copy of the contract or offer to purchase and the attached notice of cancellation, and shall inform the buyer orally of his or her right to cancel and the requirement that cancellation be in writing, at the time the home solicitation contract or offer is executed.

(g) Until the seller has complied with this section the buyer may cancel the home solicitation contract or offer.

(h) “Contract or sale” as used in subdivision (c) means “home solicitation contract or offer” as defined by Section 1689.5.

(i) This section shall be repealed on January 1, 2006.

SEC. 27. Section 1689.7 of the Civil Code, as amended by Section 17 of Chapter 566 of the Statutes of 2004, is amended to read:

1689.7. (a) (1) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, in a home solicitation contract or offer, the buyer’s agreement or offer to purchase shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation, shall be dated, shall be signed by the buyer, and except as provided in paragraph (2), shall contain in immediate proximity to the space reserved for his or her signature, a conspicuous statement in a size equal to at least 10-point boldface type, as follows: “You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.”

(2) The statement required pursuant to this subdivision for a home solicitation contract or offer for the purchase of a personal emergency response unit, as defined in Section 1689.6, that is not installed with and as part of a home security alarm system subject to the Alarm Company Act (Chapter 11.6 (commencing with Section 7590) of Division 3 of the Business and Professions Code) that has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, is as follows: “You, the buyer, may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.”

(3) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, the statement required pursuant to this subdivision for the repair or restoration of residential premises damaged by a disaster pursuant to subdivision (c) of Section 1689.6 is as follows: “You, the buyer, may cancel this transaction at any time prior to midnight of the seventh business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.”

(4) A home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code shall be written in the same language,

e.g., Spanish, as principally used in the oral sales presentation. The contract, or an attachment to the contract that complies with subdivision (I) of Section 7159.4 of the Business and Professions Code shall include in immediate proximity to the space reserved for his or her signature, the following statement in a size equal to at least 12-point boldface type, which shall be dated and signed by the buyer:

“Three-Day Right to Cancel

You, the buyer, have the right to cancel this contract within three business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business by midnight of the third business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor’s instructions on how to return the goods at the contractor’s expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.”

(5) A home solicitation contract written pursuant to Section 7159.10 of the Business and Professions Code shall be written in the same language, e.g., Spanish, as principally used in the oral sales presentation. The contract, or an attachment to the contract that complies with subdivision (I) of Section 7159.13 of the Business and Professions Code shall include, in immediate proximity to the space reserved for his or her signature, the following statement in a size equal at least to 12-point boldface type, which shall be dated and signed by the buyer:

“YOUR RIGHTS TO CANCEL BEFORE WORK BEGINS

You, the buyer, have the right to cancel this contract until:

1. You receive a copy of this contract signed and dated by you and the contractor; and

2. The contractor starts work.

However, even if the work has begun you, the buyer, may still cancel the contract within three business days if the contract price is more than seven hundred fifty dollars (\$750), or if you, did not initiate the contact with the contractor to request the work, or if the contractor sold you goods or services beyond those reasonably necessary to take care of the particular problem that caused you to contact the contractor, or if the payment was due before the work was complete.

If any of these reasons for canceling occurred, you may cancel the contract by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business within three business days of the date you received a signed and dated copy of this contract. Include your name, your address, and the date you received a signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(b) The agreement or offer to purchase shall contain on the first page, in a type size no smaller than that generally used in the body of the document, the following: (1) the name and address of the seller to which the notice is to be mailed, and (2) the date the buyer signed the agreement or offer to purchase.

(c) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, or except as provided in subdivision (d), the agreement or offer to purchase shall be accompanied by a completed form in duplicate, captioned "Notice of Cancellation" which shall be attached to the agreement or offer to purchase and be easily detachable, and which shall contain in type of at least 10-point the following statement written in the same language, e.g., Spanish, as used in the contract:

"Notice of Cancellation"

/enter date of transaction/

(Date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to

you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to _____ ,
/name of seller/

at _____
/address of seller's place of business/

not later than midnight of _____ .
(Date)

I hereby cancel this transaction. _____
(Date)

(Buyer's signature)

(d) Any agreement or offer to purchase a personal emergency response unit, as defined in Section 1689.6, which is not installed with and as part of a home security alarm system subject to the Alarm Company Act which has two or more stationary protective devices used to enunciate an intrusion or fire and is installed by an alarm company operator operating under a current license issued pursuant to the Alarm Company Act, shall be subject to the requirements of subdivision (c), and shall be accompanied by the "Notice of Cancellation" required by subdivision (c), except that the first paragraph of that notice shall be deleted and replaced with the following paragraph:

You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

(e) (1) Except for contracts written pursuant to Sections 7151.2 and 7159.10 of the Business and Professions Code, any agreement or offer to purchase services for the repair or restoration of residential premises damaged by a disaster that is subject to subdivision (c) of Section 1689.6, shall be subject to the requirements of subdivision (c) of this section, and shall be accompanied by the "Notice of Cancellation" required by subdivision (c) of this section, except that the first paragraph of that notice shall be deleted and replaced with the following paragraph:

You may cancel this transaction, without any penalty or obligation, within seven business days from the above date.

(2) A home solicitation contract written pursuant to Section 7151.2 of the Business and Professions Code for the repair or restoration of residential premises damaged by a disaster that is subject to subdivision (c) of Section 1689.6, shall be written in the same language, e.g. Spanish, as principally used in the oral sales presentation. The contract, or an attachment to the contract that complies with subdivision (I) of Section 7159.4 of the Business and Professions Code shall include, in immediate proximity to the space reserved for his or her signature, the following statement in a size equal to at least 12-point boldface type, which shall be signed and dated by the buyer:

“Seven-Day Right to Cancel

You, the buyer, have the right to cancel this contract within seven business days. You may cancel by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor’s place of business by midnight of the seventh business day after you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received the signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor’s instructions on how to return the goods at the contractor’s expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract.”

(3) A home solicitation contract written pursuant to Section 7159.10 of the Business and Professions Code for the repair or restoration of residential premises damaged by a disaster that is subject to subdivision (c) of Section 1689.6, be written in the same language, e.g. Spanish, as principally used in the oral sales presentation. The contract, or an attachment to the contract that complies with subdivision (I) of Section 7159.13 of the Business and Professions Code shall include, in immediate proximity to the space reserved for his or her signature, the following statement in a size equal to at least 12-point boldface type, which shall be signed and dated by the buyer:

“YOUR RIGHTS TO CANCEL BEFORE WORK BEGINS

You, the buyer, have the right to cancel until both of the following events have occurred:

1. You receive a copy of this contract, signed and dated by you and the contractor; and
2. The contractor starts work.

However, even if the work has begun, you, the buyer, may still cancel the contract within seven business days if the contract price is more than seven hundred fifty dollars (\$750), or if you did not initiate the contact with the contractor to request the work, or if the contractor sold you goods or services beyond those reasonably necessary to take care of the particular problem that caused you to contact the contractor, or if the payment was due before the work was complete.

If any of these reasons for canceling occurred, you may cancel the contract by e-mailing, mailing, faxing, or delivering a written notice to the contractor at the contractor's place of business within seven business days of the date you received a signed and dated copy of the contract that includes this notice. Include your name, your address, and the date you received a signed copy of the contract and this notice.

If you cancel, the contractor must return to you anything you paid within 10 days of receiving the notice of cancellation. For your part, you must make available to the contractor at your residence, in substantially as good condition as you received it, any goods delivered to you under this contract or sale. Or, you may, if you wish, comply with the contractor's instructions on how to return the goods at the contractor's expense and risk. If you do make the goods available to the contractor and the contractor does not pick them up within 20 days of the date of your notice of cancellation, you may keep them without any further obligation. If you fail to make the goods available to the contractor, or if you agree to return the goods to the contractor and fail to do so, then you remain liable for performance of all obligations under the contract."

(f) The seller shall provide the buyer with a copy of the contract or offer to purchase and the attached notice of cancellation, and shall inform the buyer orally of his or her right to cancel and the requirement that cancellation be in writing, at the time the home solicitation contract or offer is executed.

(g) Until the seller has complied with this section the buyer may cancel the home solicitation contract or offer.

(h) "Contract or sale" as used in subdivision (c) means "home solicitation contract or offer" as defined by Section 1689.5.

(i) This section shall become operative on January 1, 2006.

SEC. 28. Section 1689.13 of the Civil Code, as amended by Section 4 of Chapter 51 of the 1st Extraordinary Session of the Statutes of 1994, is amended to read:

1689.13. (a) Sections 1689.5 to 1689.7, inclusive, Sections 1689.10 to 1689.12, inclusive, and Section 1689.14 shall not apply to a contract that is initiated by the buyer or his or her agent or insurance representative and that is executed in connection with the making of emergency or immediate necessity repairs or services that are necessary for the immediate

protection of persons or real or personal property, provided that the buyer furnishes the seller with a separate dated and signed personal statement describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within three or seven business days, whichever applies.

(b) This section shall be repealed on January 1, 2006.

SEC. 29. Section 1689.13 of the Civil Code, as added by Section 19 of Chapter 566 of the Statutes of 2004, is amended to read:

1689.13. Sections 1689.5, 1689.6, 1689.7, 1689.10, 1689.12, and 1689.14 do not apply to a contract that meets all of the following requirements:

(a) The contract is initiated by the buyer or his or her agent or insurance representative.

(b) The contract is executed in connection with making of emergency or immediately necessary repairs that are necessary for the immediate protection of persons or real or personal property.

(c) The buyer gives the seller a separate statement that is dated and signed that describes the situation that requires immediate remedy, and expressly acknowledges and waives the right to cancel the sale within three or seven business days, whichever applies.

(d) This section shall become operative on January 1, 2006.

SEC. 30. Section 1689.15 of the Civil Code is amended to read:

1689.15. (a) Notwithstanding any other provision of law, a contractor who is duly licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code may commence work on a service and repair project as soon as the buyer receives a signed and dated copy of a service and repair contract that meets the contract requirements found in Section 7159.10 of the Business and Professions Code. The buyer retains any right of cancellation applicable to home solicitations under Sections 1689.5 to 1689.14, inclusive, until such time as the buyer receives a signed and dated copy of a service and repair contract that meets the contract requirements found in Section 7159.10 of the Business and Professions Code and complies with Section 1689.7, and the licensee in fact commences that project, at which time the buyer is deemed to have waived, and has waived, any cancellation right provided in Sections 1689.5 to 1689.14, inclusive.

(b) This section shall become operative on January 1, 2006.

SEC. 31. Section 21 of Chapter 566 of the Statutes of 2004 is repealed.

SEC. 32. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement necessary changes to various provisions regulating professions and vocations as quickly as possible, it is necessary for this act to take effect immediately.